

THE CORPORATION OF THE TOWN OF AMHERSTBURG

BY-LAW NO. 2017-82

A BY-LAW TO AUTHORIZE CERTAIN NEW CAPITAL WORKS OF THE TOWN OF AMHERSTBURG (THE "MUNICIPALITY"); TO AUTHORIZE THE SUBMISSION OF AN APPLICATION TO ONTARIO INFRASTRUCTURE AND LANDS CORPORATION ("OILC") FOR FINANCING SUCH CAPITAL WORKS; AND TO AUTHORIZE LONG TERM BORROWING FOR SUCH WORKS THROUGH THE ISSUE OF DEBENTURES TO OILC

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**WHEREAS** the *Municipal Act, 2001* (Ontario), as amended, (the "Act") provides that a municipal power shall be exercised by by-law unless the municipality is specifically authorized to do otherwise;

**AND WHEREAS** it is now deemed to be expedient to authorize for the purposes of the Municipality the new capital work(s) described in column (2) of Schedule "A" (individually a "Capital Work", collectively the "Capital Works", as the case may be) attached hereto and forming part of this By-law ("Schedule "A") in the amount of the respective estimated expenditure set out in column (3) of Schedule "A", subject in each case to approval by OILC of the financing for such Capital Work(s) that will be requested by the Municipality in the Application as hereinafter defined;

**AND WHEREAS** in accordance with section 4 of Ontario Regulation 403/02 (the "Regulation"), the Council of the Municipality had its Treasurer calculate an updated limit in respect of its most recent annual debt and financial obligation limit received from the Ministry of Municipal Affairs and Housing (as so updated, the "Updated Limit"), and, on the basis of the authorized estimated expenditure for the Capital Work or each Capital Work, as the case may be, as set out in column (3) of Schedule "A" (the "Authorized Expenditure" for any such Capital Work), the Treasurer calculated the estimated annual amount payable in respect of the Capital Work or each Capital Work, as the case may be, (collectively the "Estimated Annual Amount Payable") and determined that the Estimated Annual Amount Payable does not cause the Municipality to exceed the Updated Limit, and accordingly the approval of the Ontario Municipal Board pursuant to the Regulation, is not required before any such Capital Work is authorized by the Council of the Municipality;

**AND WHEREAS** subsection 405(1) of the Act provides, amongst other things, that a municipality may authorize temporary borrowing to meet expenditures made in connection with a work to be financed in whole or in part by the issue of debentures if, the municipality is an upper-tier municipality, a lower-tier municipality in a county or a single-tier municipality and it has approved the issue of debentures for the work;

**AND WHEREAS** subsection 401(1) of the Act provides that a municipality may incur a debt for municipal purposes, whether by borrowing money or in any other way, and may issue debentures and prescribed financial instruments and enter prescribed financial agreements for or in relation to the debt;

**AND WHEREAS** the Act also provides that a municipality shall authorize long term borrowing by the issue of debentures or through another municipality under section 403 or 404 of the Act;

**AND WHEREAS** OILC has invited Ontario municipalities desirous of obtaining temporary and long term debt financing in order to meet capital expenditures incurred on or after January 1, 2004 in connection with eligible capital works to

make application to OILC for such financing by completing and submitting an application on the form provided by OILC;

**AND WHEREAS** the Municipality has completed and submitted an application to OILC (the "**Application**") to request financing for the Capital Work(s) by way of long term borrowing through the issue of debentures to OILC and by way of temporary borrowing from OILC pending the issue of such debentures;

**AND WHEREAS** OILC has accepted and has approved the Application;

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF AMHERSTBURG ENACTS AS FOLLOWS:**

1. The Council of the Municipality hereby confirms, ratifies and approves the execution by the Treasurer of the Application and the submission by such authorized official of the Application, duly executed by such authorized official, to OILC for the financing of the Capital Work(s) in the maximum aggregate principal amount of \$1,500,759.00 substantially in the form of Schedule "B" hereto and forming part of this By-law, with such changes thereon as such authorized official may hereafter approve, such execution and delivery to be conclusive evidence of such approval.

(a) The undertaking of the Capital Work or of each Capital Work, as the case may be, in the amount of the respective estimated Authorized Expenditure set out in column (3) of Schedule "A" is hereby approved and authorized;

(b) any one or more of the Mayor and the Treasurer are hereby authorized to conclude contracts on behalf of the Municipality for the undertaking of the Capital Work or of each Capital Work, as the case may be, in accordance with the Municipality's usual protocol;

where applicable, the Engineer of the Municipality will forthwith make such plans, profiles and specifications and furnish such information as in the opinion of the Engineer are necessary for the undertaking of the Capital Work or of each Capital Work, as the case may be; and

where applicable, the undertaking of the Capital Work or of each Capital Work, as the case may be, shall be carried on and executed under the superintendence and according to the direction and orders of such Engineer.


2. The Mayor and the Treasurer are hereby authorized to negotiate and enter into, execute and deliver for and on behalf of the Municipality a financing agreement (a "**Financing Agreement**") with OILC that provides for temporary and long term borrowing from OILC in respect of the Capital Work(s) on such terms and conditions as such authorized officials may approve, such execution and delivery to be conclusive evidence of such approval.

3. The Mayor and/or the Treasurer are hereby authorized, pending the substantial completion the Capital Work or each Capital Work, as the case may be, or as otherwise agreed with OILC, to make temporary borrowings pursuant to section 405 of the Act in respect of the Capital Work or of each Capital Work, as the case may be, on the terms and conditions provided in the Financing Agreement and on such other terms and conditions as such authorized officials may agree, and to sign such evidence of indebtedness as OILC may require (the "**Note**") and to deliver the Note to OILC, such execution and delivery to be conclusive evidence of such agreement; and the Treasurer is authorized to sign such certifications as OILC may require in connection with such borrowings in respect of the Capital Work(s); provided that the amount of borrowings allocated to the Capital Work or to each Capital Work, as the case may

be, does not exceed the Authorized Expenditure for such Capital Work and does not exceed the related loan amount set out in column (4) of Schedule "A" in respect of such Capital Work.

4. Subject to the terms and conditions of the Financing Agreement and such other terms and conditions as OILC may otherwise require, the Mayor and the Treasurer are hereby authorized to long term borrow for the Capital Work(s) and to issue debentures to OILC on the terms and conditions provided in the Financing Agreement and on such other terms and conditions as such authorized officials may agree (the "Debentures"); provided that the principal amount of the Debentures issued in respect of the Capital Work or of each Capital Work, as the case may be, does not exceed the Authorized Expenditure for such Capital Work and does not exceed the related loan amount set out in column (4) of Schedule "A" in respect of such Capital Work.
5. In accordance with the provisions of section 25 of the *Ontario Infrastructure and Lands Corporation Act, 2011*, as amended from time to time hereafter, as security for the payment by the Municipality of the indebtedness of the Municipality to OILC under the Note and/or the Debentures, as the case may be (the "Obligations"), the Municipality is hereby authorized to agree in writing with OILC that the Minister of Finance is entitled, without notice to the Municipality, to deduct from money appropriated by the Legislative Assembly of Ontario for payment to the Municipality, amounts not exceeding the amounts that the Municipality fails to pay OILC on account of the Obligations and to pay such amounts to OILC from the Consolidated Revenue Fund.
6. For the purposes of meeting the Obligations, the Municipality shall provide for raising in each year as part of the general levy, the amounts of principal and interest payable in each year under the Note and/or any outstanding Debenture, to the extent that the amounts have not been provided for by any other available source including other taxes or fees or charges imposed on persons or property by a by-law of any municipality.
7. The Mayor and/or the Treasurer are hereby authorized to execute and deliver the Note, the Mayor and the Treasurer are hereby authorized to enter into, execute and deliver the Financing Agreement, and to issue the Debentures, one or more of the Clerk and the Treasurer are hereby authorized to generally do all things and to execute all other documents and papers in the name of the Municipality in order to perform the Obligations of the Municipality under the Financing Agreement and to execute and deliver the Note and to issue the Debentures, and the Treasurer is authorized to affix the Municipality's municipal seal to any such documents and papers.
8. The money realized in respect of the Note and the Debentures, including any premium, and any earnings derived from the investment of that money, after providing for the expenses related to the execution and delivery of the Note and to the issue of the Debentures, if any, shall be apportioned and applied to the respective Capital Work and to no other purpose except as permitted by the Act.

Read three times and finally passed this 11<sup>st</sup> day of September, 2017.



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MAYOR – Aldo DiCarlo



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CLERK – Paula Parker

**Schedule "A"**  
**to By-Law Number 2017-82**  
**(New Capital Work(s))**

(1)	(2)	(3)	(4)
<u>Capital Work Number</u>	<u>Description of Capital Work</u>	<u>Estimated Expenditure</u>	<u>Loan Amount</u>
340	Texas Rd Reconstruction	\$5,136,518.00	\$857,150.00
341	Upflow Clarifier Cover	\$398,609.00	\$398,609.00
342	Riviera Place/Riviera Drive Watermain	\$257,859.00	\$245,000.00

**Schedule "B"**

**Please insert the OILC Application into Schedule "B".**



Description	Timing	Amount
WW Operations	Expected	\$45,965.00
<b>Other Project Funding/Financing Total (B)</b>		<b>\$4,279,368.00</b>
<b>OILC Loan Amount (A-B)</b>		<b>\$4,233,403.00</b>

Only include long-term borrowing in this section. If you anticipate that you will require short-term financing during the construction phase of the project, the information will be gathered as part of the Financing Agreement.

Required Date	Amount	Term	Type
06/30/2017	\$857,150.00	20	Amortizing
<b>Long-term Borrowing Total</b>	<b>\$857,150.00</b>		

### Details of Project Upflow Clarifier Cover

<b>Project Category</b>	Clean Water Infrastructure
<b>Project Name</b>	Upflow Clarifier Cover
<b>Construction/Purchase Start</b>	2016-01-01
<b>Construction/Purchase End</b>	2016-01-01
<b>Energy Conservation</b>	<input type="checkbox"/>
<b>Project Address 1</b>	1000 St. Lawrence
<b>Project Address 2</b>	
<b>City / Town</b>	St. John's, Newfoundland
<b>Province</b>	NS
<b>Postal Code</b>	A1A 1A1
<b>Description</b>	Installation of Clarifier Cover at the water treatment plant as a result of a Ministry of Environment and Design Contract award/contract
<b>Comments and/or Special Requests</b>	

Project Life Span (Years)

### Project Financial Information

<b>Project Cost (A)</b>	\$4,233,403.00
<b>Other Project Funding / Financing (B):</b>	
<b>Other Project Funding/Financing Total (B)</b>	\$0.00
<b>OILC Loan Amount (A-B)</b>	<b>\$4,233,403.00</b>

Only include long-term borrowing in this section. If you anticipate that you will require short-term financing during the construction phase of the project, the information will be gathered as part of the Financing Agreement.

Required Date	Amount	Term	Type
	\$4,233,403.00	20	Amortizing
<b>Long-term Borrowing Total</b>	<b>\$4,233,403.00</b>		

### Details of Project Riviera Place/ Riviera Drive Watermain

<b>Project Category</b>	Clean Water Infrastructure
<b>Project Name</b>	Riviera Place/ Riviera Drive Watermain
<b>Construction/Purchase Start</b>	



Construction/Purchase End

Energy Conservation

Project Address 1

Project Address 2

City / Town

Province

Postal Code

Description

Green Planet Energy Drive PV system (open air) replacement. Replacement of existing 5 kW PV system with 150 PV, 3000 and installation of Smart Drive (single phase) approximately 100 meters.

Comments and/or Special Requests

Project Life Span (Years)

**Project Financial Information**

Project Cost (A)

\$257,859.00

**Other Project Funding / Financing (B):**

Description	Timing	Amount
Reserves	Existing	\$12,859.00

Other Project Funding/Financing Total (B)

\$12,859.00

OILC Loan Amount (A-B)

\$245,000.00

Only include long-term borrowing in this section. If you anticipate that you will require short-term financing during the construction phase of the project, the information will be gathered as part of the Financing Agreement.

Required Date	Amount	Term	Type
	\$245,000.00	20	Amortizing

Long-term Borrowing Total

\$245,000.00

**Debt and Re-payments Summary**

Has there been any new/undisclosed debt acquired since last FIR was submitted?  Yes  No

Please describe any re-financing plans for any existing "Interest only" debt, if applicable.

**Non Re-payments of Loans or Debenture**

In the last 10 years, has the borrower ever failed to make a loan payment or debenture repayment on time to any lender, including the Provincial Government?

If yes, please provide details.

**OILC Loan Repayment Information**

Please indicate the source(s) of revenue you plan to use to repay the OILC Loan

Taxation

User Fees

Service Charges

**Development Charges**

**Connection Fees**

**Repayment Subsidies**

**Other**

**Total**

## Documentation and Acknowledgements

Please ensure all required documents are submitted with the signed application. OILC requires originals as noted below to be mailed or couriered. Also, please retain a copy of all documents submitted to OILC for your records.

To obtain templates for documents see listed below.

- Loan Application Signature Page signed and dated by the appropriate individual (original to be submitted)
- Certificate and sealed copy of OILC template By-Law authorizing project borrowing and applying for a loan (original with seal)
- Certificate of Treasurer Regarding Litigation using the OILC template (original, signed & sealed)
- Updated Certified Annual Repayment Limit Calculation (original)

I acknowledge and agree that all of the above referenced documents must be submitted in the form required by OILC and understand that the application will not be processed until such documents have been fully completed and received by Infrastructure Ontario.

**Please note: OILC retains the right to request and review any additional information or documents at its discretion.**

### ***Confidential Information***

OILC is an institution to which the Freedom of Information and Protection of Privacy Act (Ontario) applies. Information and supporting documents submitted by the Borrower to process the loan application will be kept secure and confidential, subject to any applicable laws or rules of a court or tribunal having jurisdiction.

**SCHEDULE "C"**  
**ADDRESSES FOR NOTICE**

Ontario Infrastructure and Lands Corporation

1 Dundas, 20<sup>th</sup> floor

Toronto, Ontario

M5G 2L5

Attn: Loan Operations

Fax: 416-263-5900

The Corporation of The Town of Amherstburg

21 Sandwich Street South

Amherstburg, ON

N9V2A5

Attn: Justin Rousseau, Treasurer

Fax: 5197360011

**SCHEDULE "D"**

**PRE-AUTHORIZED DEBIT ("PAD") AND ACCOUNT FOR DEPOSIT**

**THE CORPORATION OF THE TOWN OF AMHERSTBURG**

**(1) Company Information**

Full Legal Name: Ontario Infrastructure and Lands Corporation

Address: 1 Dundas Street West Suite 2000 City: Toronto

Province: ON Postal Code: M5G 2L5 Phone #: 416-326-1149

**(2) Customer Information**

Full Legal Name: The Corporation of The Town of Amherstburg

Exact account name: The Corporation of The Town of Amherstburg

Address: 271 Sandwich St. South City: Amherstburg

Province: Ont Postal Code: N9V 2Z3 Phone #: 519 736 0012

**[THE REMAINDER OF THIS PAGE HAS INTENTIONALLY BEEN LEFT BLANK]**

**(3) Financial Institution Information** (Note: Please attach VOID cheque)

**(i) Inflow of Deposits**

Name of Financial Institution: Windsor Family Credit Union

Address: 322 Sandwich Street South City: Amherstburg

Province: Ont Postal Code: N4V 0C7 Phone #: 519 974 3100

Transit #: 64332 Institution #: 0828 Account #: 0642917911

**(ii) Outflow of Pre-Authorized Debit**

Same as above

If different from above fill out banking information below

Name of Financial Institution: \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_

Province: \_\_\_\_\_ Postal Code: \_\_\_\_\_ Phone #: \_\_\_\_\_

Transit #: \_\_\_\_\_ Institution #: \_\_\_\_\_ Account #: \_\_\_\_\_

Sample of the numbering at the bottom of a cheque

001234	01234 - 001		111-222-3
↓	↙	↘	↓
Cheque #	Transit #	Institution #	Account #



1. Purpose of Debits

[ X ] Business PAD


2. Pre Notification of Amounts

**Fixed Amounts:** The Company will provide written notice of the amount to be debited and the date of the debit at least ten (10) calendar days before the date of the first debit and every time there is a change in the amount or payment date.


**Variable Amounts:** The Company will provide written notice of each amount to be debited and the date of the debit at least ten (10) calendar days before the date of each debit.

The Customer and Company hereby agree to waive the above pre notification requirements.


Authorized Signature of Customer:

  
\_\_\_\_\_  
THE CORPORATION OF THE TOWN OF  
AMHERSTBURG  
Name:  
Title:

Authorized Signature of Customer:

  
\_\_\_\_\_  
THE CORPORATION OF THE TOWN OF  
AMHERSTBURG  
Name: *Justin Rousseau*  
Title: *Treasurer*

Authorized Signature of Company:

  
\_\_\_\_\_  
ONTARIO INFRASTRUCTURE AND LANDS  
CORPORATION  
Name: John Peters  
Title: Vice President, Credit Risk

3. Rights of Dispute

The Customer has certain recourse rights if any debit does not comply with this Authorization. For example, the Customer has the right to receive reimbursement for any debit that is not authorized or is not consistent with this Authorization. To obtain more information on the Customer's recourse rights, the Customer may contact its financial institution or visit [www.cdnpay.ca](http://www.cdnpay.ca).

The Customer may dispute a debit under the following conditions: (i) the debit was not drawn in accordance with this Authorization; or (ii) amounts were drawn after this Authorization was revoked or cancelled in accordance with paragraph 4 below.

In order to be reimbursed, the Customer must complete a declaration form / reimbursement claim, in the form provided by the Bank, at the above indicated branch

of the Bank up to and including ten (10) business days after the date on which the debit in dispute was posted to the Customer's account.

The Customer acknowledges that disputes after the above noted time limitations are matters to be resolved solely between the Company and Customer.

#### **4. Terms of Authorization to Debit the Above Account**

The Customer authorizes the Company to debit the above account(s) for all payments of principal, interest and other amounts payable to the Company from time to time in respect of the Customer's indebtedness to the Company in accordance with the terms of the financing agreement between the Company and the Customer dated as 11th day of October, 2017 (the "Financing Agreement").

The Customer authorizes the Company to debit the above account(s) for amounts payable to the Company if the Customer fails to provide written notice to the Company of any change to the terms of a Debenture at least five (5) Business Days prior to the date the Company is scheduled to set the interest rate for a Debenture, as defined in the Financing Agreement.

The Bank is not required to verify that any debits drawn by the Company are in accordance with this Authorization or any agreement made between the Customer and the Company.

This Authorization is to remain in effect and may not be revoked or cancelled until the Company has received written notification from the Customer of its change or cancellation in accordance with this Authorization. This Authorization may only be revoked or cancelled by the Customer upon thirty (30) days' written notice to the Company and provided that the Customer designates alternative account(s) and delivers new pre-authorized debit agreement(s) in respect of the new account(s) for purposes of effecting debits of the Customer's obligations under the Financing Agreement. The Customer may obtain a sample cancellation form, or more information on the right to cancel a PAD Agreement by visiting [www.cdnpay.ca](http://www.cdnpay.ca).


This Authorization applies only to a method of payment and cancellation of this Authorization does not mean that the Customer's contractual obligations to the Company are ended, and nor does this Authorization otherwise modify or detract from any of the Customer's obligations to the Company.

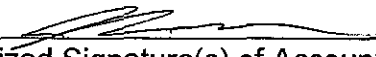
The Customer will notify the Company promptly in writing if there is any change in the above account information. The Customer may contact the Company in accordance with notification provisions set forth in the Financing Agreement.

The Customer consents to the disclosure of any personal information that may be contained in this Authorization to the Bank at which the Company maintains its account to be credited with the debits as far as any such disclosure of personal information is related to and necessary for the proper application of the Rules of the Canadian Payments Association.



Any delivery of this Authorization to the Company constitutes delivery by the Customer to the Bank. It is warranted by the Customer that all persons whose signatures are required to sign on the above account have signed this Authorization. The Customer acknowledges receipt of a signed copy of this Authorization.

  
\_\_\_\_\_  
Signature(s) or Authorized Signature(s) of Account Holder(s) (Date)

  
\_\_\_\_\_  
Signature(s) or Authorized Signature(s) of Account Holder(s) (Date)

## FINANCING AGREEMENT

THIS AGREEMENT (the "**Agreement**"), made in duplicate, dated and effective as of 11th day of October, 2017.

**BETWEEN: ONTARIO INFRASTRUCTURE AND LANDS CORPORATION**  
(hereinafter referred to as "**OILC**");

And

**THE CORPORATION OF THE TOWN OF AMHERSTBURG** (hereinafter referred to as the "**Municipality**")

### WHEREAS:

OILC has advised the Municipality that its loan application 1200, (the "**Application**"), has been approved;

OILC agrees to make financing available to the Municipality up to a maximum aggregate principal amount of \$1,500,759.00 (One Million Five Hundred Thousand Seven Hundred Fifty Nine Dollars) (the "**Committed Amount**") for the project(s) listed in the Application and more particularly described in Schedule "A" hereto (each, a "**Project**"), subject to the terms and conditions set out in this Agreement.

**NOW THEREFORE** for good and valuable consideration, the receipt and sufficiency whereof are hereby acknowledged by the parties, the Municipality and OILC hereby agree as follows:

### 1. **Definitions.** In this Agreement:

- (a) "**Act**" means the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended from time to time.
- (b) "**Agreement**" means the agreement constituted by this agreement including all schedules attached hereto and referenced documents, as the same may be amended, restated, supplemented, replaced, otherwise modified or terminated from time to time. Terms such as "hereof", "herein" and "hereto" refer to this Agreement.
- (c) "**Business Day**" means a day on which banking institutions in Toronto, Ontario, Canada and the Municipality are not authorized or obligated by law or executive order to be closed, other than Saturday or Sunday.
- (d) "**Committed Amount**" has the meaning given to it in the second recital hereof; and when used in reference to a particular Project, "Committed Amount" means the portion of the Committed Amount allocated to such Project in Schedule "A" hereto.

- (e) **“Facility Termination Date”** means the earlier of Termination Date and the date on which the obligations of OILC hereunder have been terminated pursuant to paragraphs 8(b) or 8(c) hereof.
- (f) **“Issue Date”** for a Debenture means the date on which the Debenture is issued. The date on which the Debenture is issued will be either be “Requested Date of Debenture” or the “Revised Date of Debenture” as such dates are further identified on Schedule “A”.
- (g) **“Open Data”** means data that is required to be released to the public pursuant to the Open Data Directive.
- (h) **“Open Data Directive”** means the Ontario government's Management Board of Cabinet's Open Data Directive, updated on April 29, 2016, as amended from time to time.
- (i) **“Principal Amount”** of an interest-bearing Debenture means the amount stated to be payable by the maturity date of the Debenture, exclusive of any interest.

## 2. **Representations and Warranties.**

The Municipality represents and warrants to OILC that:

- (a) the information contained in the Application, to the extent that it relates to the Municipality or the Project(s), is true and correct in all material respects as of the date of this Agreement;
- (b) the financing applied for in the Application relates only to expenditures in respect of the Project(s) that were or will be actually made by the Municipality on or after January 1, 2012;
- (c) long term financing for the Project(s) by way of one or more debentures (individually a **“Debenture”**, collectively the **“Debentures”**) to be issued to OILC, and the entering into of this Agreement have been approved by authorizing by-law duly passed by the Council of the Municipality in full compliance with the Act and the regulations made thereunder and more particularly described in Schedule “B” hereto (the **“Authorizing By-law”**);
- (d) the principal amount of financing allocated to each Project in the Authorizing By-law does not exceed the expenditures approved by the Municipality in respect of such Project;
- (e) the Municipality is not now subject to any restructuring order under Part V of the Act; accordingly, no approval of the Project(s), the Application or the borrowings applied for in the Application is required to be given by any transition board or commission appointed in respect of the restructuring of the Municipality and the Municipality undertakes to notify OILC if it becomes subject to any restructuring order under Part V of the Act; and

- (f) the Municipality is not currently in default under any debentures and undertakes to immediately inform OILC if it is in default under any such financial obligations at any time.

**3. Use of Proceeds.**

- (a) The Municipality covenants and agrees that:
  - (i) the proceeds of each Debenture shall be applied only to either:
    - (1) capital expenditures in respect of hard and soft capital costs actually made or to be made if OILC in its sole discretion has agreed to purchase a Debenture prior to the expenditure of all or any portion of the Committed Amount on the Project(s), by the Municipality on or after January 1, 2012 if such costs are directly related to the Project(s) in respect of which the Debenture is being issued; or
    - (2) legal costs and expenses directly related to the issue of such Debenture;
  - and not to any other purpose.
- (b) For greater certainty, OILC is not responsible for ensuring that the proceeds of and Debentures are in fact used in the manner specified in paragraph 3(a) above.

**4. Conditions Precedent to Debenture Purchases.** OILC shall not purchase any Debenture until each of the following conditions precedent, has been satisfied, in which case OILC may purchase any Debenture in accordance with paragraphs 5 and 6:

- (i) OILC shall have received a Treasurer's Certificate, dated as of the Issue Date ("**Debenture Treasurer's Certificate**");
- (ii) OILC shall have received a legal opinion from the municipality's external legal counsel, dated as of the Issue Date, addressed to OILC in form and substance satisfactory to OILC;
- (iii) the purchase price for any Debenture, when added to the aggregate amount of Debentures then outstanding in respect of a Project, does not exceed the Committed Amount for that Project;
- (iv) the representations and warranties of the Municipality set out in paragraph 2 hereof shall be true and correct as at the date of the request to purchase a Debenture, as evidenced by the Debenture Treasurer's Certificate;
- (v) the Municipality shall not be in material default of any of its obligations under this Agreement as at the Issue Date, as evidenced by the Debenture Treasurer's Certificate;

- (vi) at OILC's sole discretion, if any issues that were raised in any audit conducted under paragraph 11 (a) have been resolved to OILC's satisfaction and/or OILC has neither required an audit under paragraph 11 (a) nor is such an audit ongoing; and
- (vii) none of the events specified in paragraph 8(c) shall have occurred and be continuing.

## **5. Purchase of Debentures.**

- (a) Provided that the Municipality is not in default under this Agreement, that all of the conditions precedent listed in paragraph 4 have been satisfied and that none of the events specified in paragraph 8(c) shall have occurred and be continuing, and upon satisfaction of such other usual and customary conditions precedent as OILC and its legal counsel may reasonably require, and subject to paragraph 6 hereof, OILC agrees to purchase Debentures from the Municipality on the Issue Date that is identified on the attached Schedule "A" . The Issue Date being the 1st or 15<sup>th</sup> or the next following Business Day of a calendar month or at a time or times to be determined at the sole discretion of OILC, on or prior to the Facility Termination Date in an aggregate Principal Amount not to exceed the Committed Amount and subject to the detailed Debenture purchase process to be provided to the Municipality. Notwithstanding OILC's ability to purchase Debentures from the Municipality at its sole discretion as noted above and subject to its rights contained in paragraphs 6(a), 8(b) and 8(c) below, should the Municipality not issue Debenture(s) on the Issue Date, the Municipality shall have a period of one year from the Issue Date to issue Debenture(s) to OILC. Should the Municipality fail to issue Debenture(s) within the one year period, OILC shall have the right to terminate this Agreement in accordance with paragraphs 8(b) and (c) below.
- (b) If OILC agrees to purchase Debenture(s) from the Municipality prior to the expenditure of all or any portion of the Committed Amount on the Project(s), the Municipality agrees that it will submit an annual Treasurer's Report, in the form to be provided by OILC, to OILC verifying that all proceeds of such Debenture(s) have been used exclusively for the financing of the Project(s) during the relevant period. The first such report shall be due on the first anniversary of the purchase of the Debenture(s) by OILC and subsequent reports shall be due annually thereafter on subsequent anniversaries until such time as all the proceeds of such Debenture(s) have been expended.
- (c) The purchase price for Debentures will be tendered to the Municipality by electronic transfer of funds to an account of the Municipality maintained with a deposit-taking institution, such account to be designated by notice in writing to OILC by the execution and delivery of the attached Schedule "D" to this Agreement and the Municipality undertakes to notify OILC immediately in writing of any changes in its designated account for the purposes of such deposit.

## **6. Issue of Debentures**

- (a) The Municipality shall notify OILC sixty (60) days in advance of the Issue Date as noted on Schedule "A" hereto. If the Debenture(s) will not be offered for purchase on such date the Municipality shall propose another Issue Date subject to OILC's rights under paragraph 5(a) and subject to OILC's right to reject the new Issue Date.
- (b) OILC is not responsible for ensuring that the proceeds of any Debenture are in fact used for the Debenture Project(s) designated as such by the Municipality pursuant to paragraph 3(a) above.
- (c) The interest rate for each Debenture (the "**Debenture Interest Rate**") shall be fixed by OILC based on OILC's cost of funds plus OILC's prevailing spread assigned to the borrower sector for program delivery costs and risks. A rate confirmation letter will be sent to the Municipality by OILC confirming the Debenture Interest Rate to be offered for the Debenture and the Municipality's acceptance of such rate shall be conclusive proof of acceptance of the Debenture Interest Rate offered.
- (d) Payments of principal and interest due on each Debenture shall be made by pre-authorized debit from an account of the Municipality maintained with a deposit-taking institution, such account to be designated by notice in writing to OILC by the execution and delivery of the attached Schedule "D" to this Agreement, together with such other authorizations, voided cheques and other documentation as the deposit-taking institution and the rules of the Canadian Payments Association may require for such pre-authorized debit, and the Municipality undertakes to notify OILC immediately in writing of any changes in its designated account for the purposes of pre-authorized debits.

#### **7. Right of Deduction.**

As security for the satisfaction by the Municipality of its payment obligations under the Debenture(s), the Municipality hereby agrees, pursuant to section 25 of the *Ontario Infrastructure and Lands Corporation Act, 2011* (Ontario), as amended from time to time hereafter, that the Minister of Finance is entitled, without notice to the Municipality, to deduct from money appropriated by the Legislative Assembly of Ontario for payment to the Municipality, amounts not exceeding the amounts that the Municipality fails to pay OILC on account of any Debenture(s) and to pay such amounts to OILC from the Consolidated Revenue Fund.

**8. Term, Termination and Default.**

- (a) This Agreement shall terminate ten (10) Business Days following the date on which the last obligations outstanding hereunder are paid in full or following the purchase by OILC of the last Debenture to be issued pursuant to this Agreement (the later of the two dates means the "Termination Date") unless earlier terminated in accordance with paragraphs (b) or (c) below, in which case the "Termination Date" means the date on which this Agreement shall terminate, in accordance with such paragraph.
- (b) OILC may terminate its obligations under this Agreement on thirty (30) days prior notice in writing to the Municipality if in the reasonable opinion of OILC the Municipality is in material default under this Agreement, other than for any cause enumerated in (c) below or if OILC rejects a new Issue Date pursuant to section 6(a) or the Municipality fails to issue Debenture(s) within the specified time period enumerated in section 5(a).
- (c) OILC may terminate any or all of its obligations under this Agreement immediately, subject to paragraph (d) below,
  - (i) if the Municipality:
    - (1) reaches or exceeds its updated debt and financial obligation limit received from the Ministry of Municipal Affairs and Housing;
    - (2) has failed to meet and pay any of its obligations under any debentures issued by the Municipality or interest thereon when due and after payment thereof has been duly demanded;
    - (3) has failed to meet and pay any of its other debts or liabilities when due and default in payment is occasioned from financial difficulties affecting the Municipality;
    - (4) has or may become involved in financial difficulties such that default or unusual difficulty in meeting debts or obligations or in providing adequate funds to meet current expenditures may ensue, or has failed to levy the necessary rates to meet current expenditures; or
    - (5) uses the proceeds of any Debenture for any purpose other than financing the Project(s) in the manner specified in Schedule "A" of this Financing Agreement.
  - (ii) if the Ontario Municipal Board makes an order under section 21 of the *Municipal Affairs Act* (Ontario), as amended, or any successor legislation to vest in the Ministry of Municipal Affairs and Housing control and charge over the administration of all the affairs of the Municipality as set forth in the order; or

- (iii) if issues raised in an audit required under paragraph 16(a) have not been resolved to OILC's satisfaction within a reasonable time after the Municipality has been notified of such issues.
- (d) If OILC elects to terminate its obligations under this Agreement pursuant to paragraph 8(c) hereof, it shall give notice in writing of such termination to the Municipality, specifying the reason for such termination. Upon delivery of such notice OILC shall have no further obligation to purchase any Debentures hereunder. In addition to any rights or remedies that OILC may have at law or in equity to enforce such obligations, OILC may request that the Minister of Finance exercise the authority described in paragraph 7.
- (e) If OILC elects to terminate its obligations under this Agreement in accordance with paragraphs 8(b) or (c) above, OILC, at its discretion, shall assess any losses that it may incur as a result of the early termination as follows: if on the Termination Date the outstanding principal balance on the Debenture(s) is less than the net present value of the Debenture(s), the Municipality shall pay the difference between these two amounts to OILC.

## **9. Communications Requirements**

- (a) OILC and the Municipality will work together to ensure that OILC financing of Project(s) receives recognition and prominence through agreed upon communications activities. An example of such activity could include signage at each Project site signifying Government of Ontario project financing.
- (b) OILC reserves the right to undertake its own communications activities in relation to OILC financing of the Project(s) at any time in its sole discretion and at its expense.
- (c) All joint communications activities between the Municipality and OILC must comply with the Government of Ontario's Visual Identity Directive and guidelines.

## **10. Indemnity**

To the fullest extent permitted by law, the Municipality shall indemnify and hold harmless OILC, its officers, directors, agents, subcontractors and employees and agents (collectively, the "**Indemnified Parties**") from and against all (a) claims and causes of action, pending or threatened, of any kind (whether based in contract, tort or otherwise) by third parties or by whomever made related to or arising out of or in any way related to this Agreement or the Project(s) and (b) liabilities, losses, damages, costs and expenses (including, without limitation, legal fees and disbursements) suffered or incurred by any of the Indemnified Parties in connection with any claims or causes of action described in paragraph (a) above. The obligations contained in this paragraph shall survive the termination or expiry of this Agreement.

## **11. General Provisions**

- (a) (i) OILC reserves the right to audit compliance with this Agreement at any time. Such right will survive any termination of this Agreement. The cost



of any such audit will be at OILC's or the Municipality's expense at OILC's sole discretion. Municipalities are required to keep any supporting documents required for any such audit for a minimum of seven (7) years.

- (ii) The Municipality's obligation to provide an annual Treasurer's Report as described in paragraph 5(b) shall survive any termination of this Agreement.
- (b) No amendment, restatement, supplement, replacement, other modification or termination of any provision of this Agreement is binding unless it is in writing and signed by each party.
- (c) The Municipality may not assign its rights or transfer its obligations under this Agreement without the prior written consent of OILC. OILC may assign its rights or transfer its obligations under this Agreement without the prior written consent of the Municipality by giving thirty (30) days notice of such assignment or transfer to the Municipality. This Agreement enures to the benefit of and binds the parties and their respective successors and permitted assigns.
- (d) This Agreement, together with the Schedules, the Application, the Note, the Treasurer's Certificate, the Debenture Treasurer's Certificate, the annual Treasurer's Report and the Debenture(s), constitutes the entire agreement between the parties with respect to the subject matter referenced in those documents and supersedes all prior agreements, negotiations, discussions, undertakings, representations, warranties and understandings, whether written or oral.
- (e) Each party shall from time to time promptly execute and deliver all further documents and take all further action reasonably necessary or appropriate to give effect to the provisions and intent of this Agreement.
- (f) Subject to paragraph (g) below, OILC acknowledges the confidential nature of the financial, operational and other information and data provided and to be provided to it by the Municipality pursuant to this Agreement (the "**Information**") and agrees to use all reasonable efforts to prevent its disclosure provided, however, that:
  - (i) it may disclose all or any part of the Information if, in its opinion, such disclosure is required in connection with any actual or threatened judicial, administrative or governmental proceeding; and
  - (ii) it shall incur no liability in respect of any disclosure of Information to any, or pursuant to the requirements of any, judicial authority, law enforcement agency or taxation authority.
- (g) The Municipality acknowledges that OILC is an institution to which the *Freedom of Information and Protection of Privacy Act* (Ontario) ("**FIPPA**") applies and in the event of an access request under FIPPA for records in the control of OILC that may be in the possession of the Municipality, the Municipality will co-operate in identifying, copying and returning such records to OILC. OILC agrees that if it collects or receives Personal Information (as such term is defined in FIPPA) it will

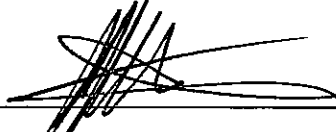
only do so, and it will only use, disclose or destroy such information, in accordance with the provisions of FIPPA relating to Personal Information in the custody or control of OILC to which FIPPA applies.

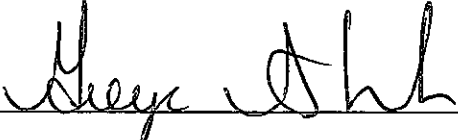
- (h) The Municipality acknowledges that this Agreement is subject to the Open Data Directive and OILC retains the right to publish Open Data.
- (i) This Agreement is governed by, and is to be construed and interpreted in accordance with, the laws of the Province of Ontario and the laws of Canada applicable in the Province of Ontario.
- (j) This Agreement and any amendment, restatement, supplement, replacement, other modification or termination of any provision of this Agreement may be executed and delivered in any number of counterparts, each of which when executed and delivered is an original but all of which taken together constitute one and the same instrument.
- (k) Either party may deliver an executed copy of this Agreement by fax but that party shall immediately deliver to the other party an original executed copy of this Agreement.
- (l) Unless otherwise specified, each notice to a party must be given in writing and delivered personally or by courier, sent by prepaid registered mail or transmitted by fax to the address or fax number set out in Schedule "C".
- (m) If any provision of this Agreement is or becomes illegal, invalid or unenforceable in any jurisdiction, the illegality, invalidity or unenforceability of that provision will not affect:
  - (i) the legality, validity or enforceability of the remaining provisions of this Agreement; or
  - (ii) the legality, validity or enforceability of that provision in any other jurisdiction.

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IN WITNESS WHEREOF the parties hereto have executed the Agreement effective as of the date first above written.


**ONTARIO INFRASTRUCTURE AND LANDS CORPORATION**

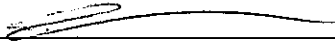
per:   
John Peters  
Vice President, Credit Risk

per:   
George Skariah  
Senior Vice President, Finance and Risk

We have the authority to bind the corporation

**THE CORPORATION OF THE TOWN OF AMHERSTBURG**

per:   
Aldo DiCarlo, Mayor

per:   
Justin Rousseau, Treasurer

We have the authority to bind the corporation

Executed by the above parties as authorized by By-Law 2017-82 of the Municipality.

**SCHEDULE "A"**  
**FINANCING SCHEDULE**

**Ontario Infrastructure and Lands Corporation**

**Financing Schedule**

Program Year: 2017/2018  
 Date: October 11, 2017

Organization Name: THE CORPORATION OF THE TOWN OF AMHERSTBURG  
 Approved Loan Amount: \$1,500,759.00

Please review, complete areas where indicated, sign, date and return the form to OILC. The following information will be incorporated into the OILC Financing Agreement.

The following lists the project information outlined in your application. Please verify that the project details are correct. You may amend the project completion dates or the total project cost if this information has changed since the application was submitted. Transfers between projects or categories are at OILC's discretion and require pre-approval.

**A. Project Details**

<u>Project Information</u>					<u>Financing Information</u>					
<u>Project ID</u>	<u>Project Name</u>	<u>Category</u>	<u>Start Date (mm/dd/yyyy)</u>	<u>Completion Date (mm/dd/yyyy)</u>	<u>Total Project Cost</u>	<u>OILC Loan Amount</u>	<u>Term</u>	<u>Type</u>	<u>Requested Date of debenture* (mm/dd/yyyy)</u>	<u>Revised Date of Debenture (mm/dd/yyyy)</u>
1	Texas Rd Reconstruction**	MRI	03/01/2013	12/31/2016	\$5,136,518.00	\$857,150.00	20 y	Amortizing	08/31/2017	
2	Upflow Clarifier Cover**	CWI	01/04/2016	12/30/2016	\$398,609.00	\$398,609.00	20 y	Amortizing	08/31/2017	
3	Riviera Place/ Riviera Drive Watermain**	CWI	01/01/2015	12/30/2015	\$257,859.00	\$245,000.00	20 y	Amortizing	08/31/2017	
					<b>\$5,792,986.00</b>	<b>\$1,500,759.00</b>				

\*Please note, debentures are to be purchased after expenditures have been incurred. Please review and adjust the Date of Debenture if required ensuring adequate time for the debenture purchase. For further clarifications or questions, please contact Jennifer Tang, Manager – Loan Administration at 416-314-5363.

\*\*These projects are not eligible for Construction Advances. Funds can only be requested for these projects by way of Debentures.

**Ontario Infrastructure and Lands Corporation**

**Financing Schedule**

Program Year: 2017/2018

Organization Name: THE CORPORATION OF THE TOWN OF AMHERSTBURG

Date: October 11, 2017

Approved Loan Amount: \$1,500,759.00

**B. Construction Financing Quarterly Forecast**

If you wish to participate in the construction loan program, please indicate the amount of construction financing you require per fiscal quarter and per debenture. A reminder that OILC provides construction advances based on incurred project expenditures, unless prior approval has been sought.

<u>Project ID</u>	<u>SEP-NOV</u> <u>2017</u>	<u>DEC-FEB</u> <u>2018</u>	<u>MAR-MAY</u> <u>2018</u>	<u>JUN-AUG</u> <u>2018</u>	<u>SEP-NOV</u> <u>2018</u>	<u>DEC-FEB</u> <u>2019</u>	<u>MAR-MAY</u> <u>2019</u>	<u>JUN-AUG</u> <u>2019</u>	<u>SEP-NOV</u> <u>2019</u>	<u>DEC-FEB</u> <u>2020</u>
1										
2										
3										

<u>Project ID</u>	<u>MAR-MAY</u> <u>2020</u>	<u>JUN-AUG</u> <u>2020</u>	<u>SEP-NOV</u> <u>2020</u>	<u>DEC-FEB</u> <u>2021</u>	<u>MAR-MAY</u> <u>2021</u>	<u>JUN-AUG</u> <u>2021</u>	<u>SEP-NOV</u> <u>2021</u>	<u>DEC-FEB</u> <u>2022</u>	<u>MAR-MAY</u> <u>2022</u>	<u>JUN-AUG</u> <u>2022</u>
1										
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Ontario Infrastructure and Lands Corporation

**Financing Schedule**

Program Year: 2017/2018

Organization Name: THE CORPORATION OF THE TOWN OF AMHERSTBURG

Date: October 11, 2017

Approved Loan Amount: \$1,500,759.00

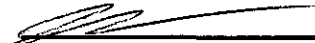
**C. Authorization**

I agree that these are the terms for the OILC loan. I understand that OILC will use this information to draft the Financing Agreement.

Justin Rousseau

Treasurer

PRINT NAME



Signature

11/23/2017

Date

**DIRECTIONS:** Please mail or courier the original signed Financing Schedule to OILC, 1 Dundas Street West, 20th Floor, Toronto, ON M5G 2L5

**SCHEDULE "B"**

**CERTIFIED COPY OF AUTHORIZING BY-LAW**